

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION	)	
OF WINSTAR OF DELAWARE, LLC, FOR	)	
APPROVAL TO REDUCE ITS BONDING	)	PSC DOCKET NO. 04-44
REQUIREMENT TO \$10,000	)	
(FILED JANUARY 22, 2004)	)	

**FINDINGS AND ORDER NO. 6364**

This 10th day of February, 2004, the Public Service Commission ("PSC" or the "Commission") finds, determines, and Orders the following:

1. In PSC Order No. 5917 (March 19, 2002), the Commission granted Winstar Delaware, LLC ("Winstar"), a conditional Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide local exchange and competitive intrastate telecommunications services within Delaware;

2. Under Rule 4(f)(i) of the Commission's "Rules for the Provision of Telecommunications Services" (adopted by PSC Order No. 5833 (Nov. 6, 2001)),<sup>1</sup> a carrier seeking a CPCN to provide telecommunications services must post with the Commission a surety bond in the amount of Ten Thousand Dollars (\$10,000) to secure adequate performance of its regulatory obligations. In addition, under Rule 4(f)(ii) of the Telecommunications Rules, no carrier may require its customers to submit a deposit or prepay for its services unless such carrier posts a surety bond with the Commission to ensure return of such deposits or pre-paid amounts in the event of the carrier's cessation of operations;

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<sup>1</sup>Hereafter referred to as the "Telecommunications Rules."

3. Consistent with these Telecommunications Rules, Staff informed Winstar that it was required to file a surety bond in the amount of Fifty Thousand Dollars. Such bond amount represented the obligation of a prepayment guarantee of \$50,000 (Rule 4 (f)(ii)) for both local and competitive intrastate telecommunications services. On April 28, 2003, Winstar filed a \$50,000 surety bond with the Commission;

4. In light of the financial hardship that the Rule 4(f) bonds have imposed on telecommunications carriers, Staff sent a letter to certificated local exchange companies explaining that any local exchange company that had filed a surety bond in the amount of Fifty or Sixty Thousand Dollars and, at this time, did not collect prepayments or deposits, could file a request to reduce its bond to the amount of Ten Thousand Dollars (\$10,000) representing the performance bond amount under Rule 4(f)(i). Because the carrier no longer seeks to collect deposits nor require prepayments for services, the provisions of the bonding requirements in Rule 4(f)(ii) would no longer be applicable;

5. On January 22, 2004, Winstar filed an application requesting Commission approval to reduce its bond from Fifty Thousand Dollars (\$50,000) to Ten Thousand Dollars (\$10,000) because Winstar does not presently collect prepayments or deposits from its customers. Staff recommends approval of such request; and

6. Based on the representations that Winstar no longer requires deposits or prepayments that would trigger the additional bond requirements of Rule 4(f)(ii), the Commission grants Winstar's request to modify its bond obligation to only the Ten Thousand Dollar (\$10,000) performance bond required by Rule 4(f)(i) of the Telecommunications Rules.

Now, therefore, **IT IS ORDERED:**

1. That the Commission grants Winstar of Delaware, LLC's request to reduce its bond from Fifty Thousand Dollars (\$50,000) to Ten Thousand Dollars (\$10,000) with such bond to conform with the requirements of Rule 4(f)(i) of the "Rules for the Provision of Telecommunications Services," adopted in PSC Order No. 5833 (Nov. 6, 2001).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joshua M. Twilley  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Donald J. Puglisi  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary